THE HONOURABLE SHRI JUSTICE R.SUBHASH REDDY

WRIT PETITION No. 16798 OF 2000

Dated 27th June, 2007

Between:

Inder Karan

…Petitioner

And

Commissioner, Municipal Corporation of
Hyderabad, Municipal Complex,
Tank Bund, Hyderabad and another.

…Respondents.

ORAL ORDER:

The petitioner is the owner of the house property bearing No. 1-9-1122/12 to 16 situated at Vidyanagar, Hyderabad forming part of T.S.No. 6/2, Ward No.158, Block-B, Vidyanagar. He filed this writ petition questioning the order of rejection of the plan for grant of approval as required under the provisions of the Hyderabad Municipal Corporation Act.

Originally, the total area of the petitioner was about 2220 sq. metres. However, it is stated that in two different spells, an extent of 920 sq. metres and 52 sq. metres of land was taken possession by the respondents without paying any compensation to the petitioner with an assurance for giving additional FSI in the proposed building. But, when the petitioner submitted plans for approval for construction of Cellar, Ground and three upper floors, the impugned proceedings are issued stating that the Building Committee observed that there is SWD sewer line passing through the site and further sufficient open spaces are not left on front side and also on the ground that the petitioner has not produced No Objection Certificate from the urban land ceiling authority.

Counter affidavit is filed by the respondents, in which, they admitted that an extent of 920 sq. metres was surrendered by the petitioner for the purpose of road widening and there was also recommendation from the Corporation for grant of extra FSI on account of surrendering of the land for the purpose of road widening without demanding compensation. It is stated that the respondents are prepared to consider if sufficient open spaces are left and subject to producing the No Objection Certificate from the urban

land ceiling authority.

The petitioner has filed an affidavit showing that the house in question is in existence from 1970 onwards with four different blocks and he is seeking permission for construction covering the whole building and in proof of payment of tax also, petitioner has filed demand notices issued by the Municipal Corporation. Though originally the total extent of land was about 2220 sq. metres, nearly about 1000 sq. metres was already taken for the public purpose of road widening without paying any compensation and with an assurance of giving additional FSI for the proposed building. So far as the sewerage line is concerned, the objection of the respondents that the sewerage line is passing through the land of the petitioner is not a ground at all, as the said property was never notified for any public purposes. In that view of the matter, the same cannot be the reason for rejecting the grant of approval of the plan for construction of the building.

In the above said circumstances, I deem it appropriate to set aside the impugned proceedings and permit the petitioner to submit fresh proposals within a period of four weeks from the date of the receipt of a copy of this order. If the said proposals are submitted, the respondents shall consider the same for construction of building without insisting upon the production of No Objection Certificate from the urban land ceiling authority and also by giving the benefit of additional FSI and other benefits as contemplated under G.O.Ms.No. 483, Municipal Administration & Urban Development (M1) Department, dated 24.8.1998, and pass appropriate orders within a period of six weeks from the date of the receipt of the plan and application for grant of permission.

Subject to above directions, the writ petition is disposed of. No costs.

27-6-2007

R.SUBHASH REDDY, J.

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